

**REMARKS**

This Response is being filed in reply to the Office Action mailed on November 3, 2005. All objections and rejections are respectfully traversed. Claims 3-18 are pending in the application.

Claims 3-18 were rejected under 35 U.S.C. 102(e) as being anticipated by Muller et. al, U.S. Patent No. 5,273,905, issued on December 28, 1993 ("Muller"). That rejection is respectfully traversed and reconsideration is requested.

In brief, the present invention relates to a microscope slide stainer and method in which liquid is dropped from an orifice 5 of a liquid dispenser CP (as shown in Figure 1) into the cavity 512a of a slide housing 522 (as shown in Figure 6). The slide housing 522 and the orifice 5 are capable of movement relative to each other under microprocessor control so as to align the dispenser CP with the slide. *See* Figure 5; page 10, lines 12-15; page 13, lines 9-19. A liquid aspirator 544 is able to remove liquid from the cavity. *See* page 12, line 16 to page 13, line 8; Figure 11A.

The present claims are directed to a slide stainer and method in which liquid is dropped from an orifice of a liquid dispenser into the cavity of a slide housing. The claimed invention is exemplified by independent Claim 3. For convenience, that claim is reproduced here.

3. A microscope slide stainer comprising:
  - a slide housing into which at least one microscope slide is inserted, said housing having a cavity into which liquids are dispensed, the cavity containing a sufficient volume of liquid to cover the at least one microscope slide;
  - a liquid dispenser including an orifice from which liquid drops into the cavity, said dispenser orifice and slide housing being capable of movement relative to each other under microprocessor control so as to align the dispenser with a slide; and
  - a liquid aspirator, said aspirator being capable of removing liquid from the cavity.

Independent Claim 3 of the claimed invention requires a “dispenser orifice and slide housing being capable of movement relative to each other under microprocessor control so as to align the dispenser with a slide.” Analogous method Claim 11 contains similar limitations.

In the Office Action, the Examiner states that Muller teaches “microprocessor control of both the heating and movement of the sample to chambers of different volumes based upon desired analysis,” citing Column 4, line 4 and onward. However, Applicants respectfully submit that the cited passage does not teach microprocessor control of movement of the either a slide housing or a dispensing orifice as claimed in the present invention. Rather, Muller discloses a system where slide processing modules are manually inserted into a system, whereby the “volumes of treating fluids” can be directed to each module through its own dedicated delivery conduit by control of a system of distribution valves. Therefore, the cited passage does not read on the claimed “. . . dispenser orifice and slide housing being capable of relative movement to each other under microprocessor control.”

Unlike the present invention, the Muller reference relates to a system in which the samples are stationary. As shown in Figs. 1 and 21, Muller discloses a system of stationary slide mounts 144.1-144.3, each mount having its own delivery conduit 133, wherein each slide mount can receive fluids through the manipulation of distribution valves. The specification in Muller explicitly states: “Each subassembly module 141 has its respective reservoir 116 delivery conduits 133 connected to a different feed position of a 12-position valve 142.” Col. 37, lines 22-24. There is no indication in Muller that either a slide mount or its delivery conduit would be capable of movement, much less movement relative to one other. The movement claimed in the present application is *between the dispenser orifice and the slide housing*; in Muller, the orifice is fixed to the slide housing.

With respect to the claims under consideration, Muller fails to disclose a “dispenser orifice and slide housing being capable of movement relative to each other under microprocessor control so as to align the dispenser with a slide.” Because the slides are inserted into stationary slide mounts (see Muller, Figs.2-9), and each slide mount has “its own delivery conduit,” it

cannot be said that Muller teaches a dispenser orifice and slide housing being capable of movement relative to each other." There simply is no movement of either the slide housing or the dispenser orifice in Muller. In Muller, fluids are transported via a series of fluid distribution valves to an orifice dedicated to each specific slide mount. Therefore, Applicants submit that the rejection under 35 U.S.C. 102(e) is improper and Claims 3-18 are in condition for allowance.

### **INFORMATION DISCLOSURE STATEMENT**

A Supplemental Information Disclosure Statement (IDS) is being filed concurrently herewith. Entry of the IDS is respectfully requested.

### **CONCLUSION**

In view of the above remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By \_\_\_\_\_

F. James Coe  
Registration No. 46,630  
Telephone: (978) 341-0036  
Facsimile: (978) 341-0136

Concord, MA 01742-9133

Dated: 2/7/06